

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WATER DIVISION

RESOLUTION NO. W-4350

November 7, 2002

R E S O L U T I O N

(RES. W-4350), DEL ORO WATER COMPANY, LIME SADDLE DISTRICT (DOWC). ORDER AUTHORIZING A SURCHARGE OF \$4.00 PER MONTH PER CUSTOMER FOR FIVE YEARS PRODUCING AN ANNUAL INCREASE IN REVENUE OF \$20,496 OR 8.9% FOR A TOTAL OF \$102,480 TO RECOVER LEGAL EXPENSES.

SUMMARY

By Advice Letter No. 109 and Supplement 109-A, filed July 25, 2002 and September 5, 2002, respectively, DOWC requests a surcharge of \$4.00 per month per customer for five years to recover the legal fees and other costs sustained in legal actions filed against the utility in Butte County Superior Court by private parties and Application (A) 00-11-053 filed by the utility with the Commission. Per Res. No. W-4253, dated April 19, 2001, DOWC was authorized to establish a memorandum account to track the legal expenses pertaining to A.00-11-053 as well as those incurred in Superior Court Cases No. 124951 and No. 125188.

In addition, DOWC is requesting the authority to establish a memorandum account to track the costs of legal fees and other charges associated with a complaint filed against DOWC on May 9, 2002 with the Commission (C.02-05-035). DOWC is a Class B utility serving approximately 427 customers in its Lime Saddle District near Chico, California.

BACKGROUND

DOWC has been sued in Superior Court, Butte County by John Lane, Cathy Lane, Jack Jacobs, Shirley Jacobs, Charles Kasza and Elizabeth Kasza (Case #124951) and by Breuer, Inc. (Case #125188) over main extension contracts the

utility entered into with the plaintiffs. DOWC subsequently filed A.00-11-053 requesting a determination by the Commission on whether the main extension contracts in question comply with Tariff Rule 15. Per Res. No. W-4253, DOWC was authorized to establish a memorandum account to track costs associated with these cases.

A complaint against DOWC was filed by Breuer Inc. on May 9, 2002, with the Commission (C.02-05-035). The utility is requesting a memorandum account to track costs associated with this case.

DISCUSSION

The Water Division (Division) has reviewed the invoices, time sheets and the calculation of the reimbursement surcharge of \$4.00 per month per customer for five years producing an annual increase in revenue of \$20,496 or 8.9% for a total of \$102,480 and finds them to be correct. The Division received five protests to the surcharge. All of the protests voiced the opinion that the customers should not bear the legal costs.

The Commission did not authorize DOWC any allowance for legal expenses in its last general rate case. Although the cases discussed above have no direct impact on rates, if the plaintiffs prevail, the utility may have to pay back the contributions made by the plaintiffs pursuant to main extension contracts between the plaintiffs and the utility, thereby increasing rates. The legal costs were used to resist the refund of contributions. This contribution offsets the costs of facilities that would otherwise be in rate base and for which the ratepayers would have to pay a return on. It was in the ratepayers' interest that the utility resist the lawsuits. The Commission ruled in favor of DOWC in Decision (D.) 02-01-014, as modified by D.02-04-064. Therefore, the Division recommends approval.

The Division will provide the Commission with another Resolution that addresses the establishment of a memorandum account to track the costs of legal fees and other charges associated with a complaint against DOWC filed on May 9, 2002 with the Commission (C.02-05-035).

NOTICE AND PROTESTS

A notice of the proposed surcharge was published in the September 10, 2002 edition of the Paradise Post. Sixteen protests were received to which the Division has responded.

This draft resolution was mailed to interested parties for comment on October 1, 2002. No comments were received.

FINDINGS AND CONCLUSIONS

1. The five-year surcharge recommended by the Division is reasonable and should be authorized.
2. DOWC should collect the five-year surcharge beginning December 1, 2002.
3. The five-year surcharge should be eliminated by November 30, 2007.
4. Expeditious resolutions of this case is in the public interest.

THEREFORE IT IS ORDERED THAT:

1. Del Oro Water Company's Lime Saddle District is authorized to make effective the revised Schedule LS-1A, Annual Metered Service, attached to Supplement Advice Letter No. 109-A and concurrently to cancel its presently effective rate schedule. The effective date of the new schedule shall be December 1, 2002.
2. The Del Oro Water Company, Lime Saddle District shall collect the five-year surcharge beginning December 1, 2002.
3. The Del Oro Water Company, Lime Saddle District's five-year surcharge will be eliminated by November 30, 2007.

4. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on November 7, 2002; the following Commissioners voting favorably thereon:

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners